IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 2673 of 2006 (O & M)

Date of decision: May 23, 2008

Dakshin Haryana Bijli Vitran
Nigam Ltd. and others ..... Appellants

Versus

Amar Singh

..... Respondent

Present: Mr. KDS Hooda, Advocate
for the appellants.

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S.S. SARON, J. (ORAL)

This appeal has been filed against the judgment and decree dated 22.10.2005 passed by the learned Additional District Judge, Faridabad whereby the appeal of the defendants/appellants-Dakshin Haryana Bijli Vitran Nigam Ltd. ("Nigam" – for short) and others against the judgment and decree dated 07.03.2005 passed by the learned trial Court has been dismissed. Along with the present appeal C.Ms./applications have been filed for condonation of delay of 16 days in filing and 522 days in refiling the appeal after removal of objections raised by the Registry.

The plaintiff-respondent Amar Singh filed a suit for declaration to the effect that notice dated 30.7.2002 issued by the defendants/appellants- Nigam is illegal and a consequential relief for permanent injunction was prayed. The plaintiff/respondent had an electricity connection at the premises of M/s Deepak Enterprises. He deposited the electric bills upto July 2002 under the Policy of replacing new electronic meters. The old meter was removed and status report of M&P seals was prepared. The meter was found alright. However, copy of the report regarding the examination of the meter was not supplied to the plaintiff-respondent. The defendants-appellants replaced the mechanical meter by installing a new electronic meter. The plaintiff received the impugned notice dated 30.7.2002 whereby a penalty of Rs.94,520/- was imposed. The plaintiff was not afforded an opportunity of being heard before imposing the penalty. As such the impugned notice was assailed. The plaintiff-respondent has also preferred an appeal on 1.8.2002 against the imposition of penalty in terms of notice dated 30.7.2002. However, the defendants-appellants refused to entertain the appeal and directed the plaintiff-respondent to deposit the entire penalty amount. The defendants-appellants in their reply took the stand that they prepared report regarding status position of M&P seals etc. The old meter was sent to Palla for its checking. In this regard, a notice was sent to the plaintiff to visit the lab at the time of checking of said meter. The checking report dated 1.7.2002 was issued by

M&P Lab, Palla on the basis of which a penalty of Rs.94,520/- was imposed. The learned trial Court held that the demand notice of Rs.94,520/- was arbitrary, unjust and liable to be set aside. The order passed by the trial Court has been upheld by the learned Lower Appellate Court. There is no infirmity in the orders passed by the learned trial Court and the learned Lower Appellate Court. Besides, no question of law is shown to be framed. The learned Lower Appellate Court has observed that the defendants-appellants had charged tariff thrice instead of twice. Besides, it was observed that the test report dated 18.7.2002 was not prepared in the presence of the plaintiff-respondent on the basis of law. There is no infirmity in the impugned orders passed by the Courts below.

Consequently, there is no merit in the Regular Second Appeal and the same is accordingly dismissed. Therefore, the question of delay in filing and refilling the appeal is only academic

(S.S. SARON)
JUDGE

May 23, 2008
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